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Big plan for change stumbles

Adding beds for inmates is twice delayed with a federal court panel's review ahead

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Six months after Gov. Arnold Schwarzenegger signed landmark prison legislation, key components of the \$7.9 billion package have bogged down in delay and disagreement.

It's not that there hasn't been some progress toward relieving overcrowding in the prisons: Provisions to build new prison hospitals and ship inmates out of state are on track at the moment. The overall prison population has even declined slightly over the past year.

But with a panel of three federal judges about to consider an order that could bring early release of thousands of prisoners, the record so far on prison changes in California is a mixed bag at best:

- The plan to add 16,000 beds to existing prisons, perhaps the easiest-to-accomplish element of the law's construction blueprint, has been delayed twice and its initial goals have been scaled back.
- The other linchpin of the bill, a rehabilitation-minded program to build dozens of "re-entry" mini-prisons around the state, also has yet to break new ground, with counties and the state disagreeing on who will run the re-entry facilities.
- Administrative parole changes ordered by state corrections officials have resulted in early discharges from supervision for more than 1,000 offenders, a prospect that could result in future inmate population declines. Some critics, however, think the changes will stir a new crime wave.
- An effort to build rehabilitation into the fabric of the system has taken hold in the state, but the corrections secretary has refused to endorse the recommendation of a panel his agency commissioned that the prison population be reduced.

An unexpected decline in the number of inmates has eased pressure on the system for now, and California Department of Corrections and Rehabilitation Secretary Jim Tilton still sees progress that's steady and on track.

Tilton said the massive prison construction and rehabilitation legislation, Assembly Bill 900, has given him the tools to fix the system. But he knows policymakers are watching him to make sure he produces.

"I made a lot of promises," Tilton said. "They're waiting to see how we do. I hope they understand it's not going to be overnight. But I think if you're real in terms of expectations, we have a good story to tell."

Assembly Bill 900 author Jose Solorio, D-Santa Ana, likes the early results on the bill, which funded 53,000 more prison and jail beds, allowed for 8,000 out-of-state inmate transfers and tied future construction to the system improving its rehabilitation programs.

At least, Solorio said, corrections officials are talking to the counties about the re-entry program. They are sending prisoners out of state, he noted, and making efforts to shore up prison management deficiencies.

"On the whole, I think it's going quite well," Solorio said.

One nationally prominent correctional expert, however, sees problems developing in the expansion and re-entry programs.

James F. Austin, former director of the Institute on Crime, Justice and Corrections at George Washington University in Washington, D.C., submitted a sworn federal court declaration blasting AB 900 as "deficient." His declaration was filed by inmate rights attorneys in their motion for a prison population cap.

AB 900, Austin said in the declaration, "is not a plan" at all but "a series of goals" with construction timelines "not likely to be met."

In an interview, Austin said California's changes won't work if it doesn't review its get-tough sentencing structure.

"They need to look at some of the bills they've been passing for the last 15 to 20 years and make some adjustments," Austin said. "That's the No. 1 thing that has to happen."

At the Deuel Vocational Institution near Tracy, about 3,850 inmates are crowded to 235 percent of design capacity in a prison that is mostly stuffed with parole violators. Prison officials think they should be the first group of inmates targeted for rehabilitation efforts designed to reduce the overall population.

"I'm not going to say we're in here for nothing," said inmate Kenslo DeWitt, 43, of Sacramento, a drug offender serving five months on a violation for missing a meeting with his parole agent. "But it's for next to nothing."

Troy Parrish, 44, said he is serving five months on his 20th parole violation in 25 years. He said he's getting too old for prison and that he thinks he's ready to turn himself around. It would help, he said, if the state could pitch in with some better programs.

"I would almost be wondering, are they really committed to it," said Parrish, who had his parole revoked after he got into a fight at a homeless camp. "Because it's going to take that. Not just from individuals like myself, but the state also."

Simmering for more than a decade, California's prison crisis boiled over again last year when Tilton expressed concern he'd have to stop accepting inmates.

But Tilton never had to shut the door to incoming prisoners. As of Oct. 31, the state actually had 505 fewer inmates than a year earlier, with the number dropping to 172,958.

Corrections officials said the state has no explanation for the decline, other than that counties are sending them fewer felons.

They're just happy the numbers are down, and at a very good time for them: The three-judge court has scheduled hearings for Feb. 6 in San Francisco to determine whether prison overcrowding stops the state from providing constitutional levels of medical and mental health care.

Inmate rights lawyers, who had already won federal oversight in two class-action cases, requested a population cap last year, saying overcrowding contributes to cruel and unusual conditions of confinement.

In its defense, the state has hoisted AB 900 as Exhibit A. But the bill's major construction cogs are off to a slow start.

Plans to build space for 16,000 new beds at existing prisons have been delayed twice, for a total of six months. And the plan to start with 7,484 beds in 10 prisons has been scrapped. Now, the goal is to kick off the program with 1,000 beds in one prison.

Deborah Hysen, head of the corrections construction team, attributed the setback to "funding complications" caused by legislation that demanded construction schedules before the money could be allocated.

"It's frustrating," Hysen said. "But I think we're moving forward."

AB 900 also calls for 16,000 re-entry beds in mini-prisons housing up to 500 short-term parole violators and inmates in the final months of their terms. The facilities would focus on rehabilitation while locating offenders closer to their old neighborhoods in order to smooth their transitions home.

Corrections officials have met with local leaders across the state and obtained preliminary agreements with 15 counties. They've also requested proposals for the 13,000 jail beds funded through AB 900 that give preference to counties that agree to locate re-entry prisons in their jurisdictions.

So far, none of the counties has entered into formal contracts. Only one re-entry facility is off the ground, in San Joaquin County, where the state plans to convert the old Northern California Women's Facility into a mini-prison for men. It took a separate piece of legislation to do that.

Disagreements have arisen between the state and some counties over who is going to operate the re-entry facilities.

"I'm simply not going to allow CDCR to run it," said Stanislaus County Sheriff Adam Christianson. "That will be a deal-breaker for me."

For his part, the corrections secretary said he'd rather run them himself. "They're my inmates," Tilton said.

Austin, the expert retained by the plaintiffs in the overcrowding case, said in his declaration that both construction plans are flawed.

Building new beds at existing prisons will do nothing to relieve overcrowding because the project is designed to replace emergency beds now bunked three-high in gyms, day rooms and other spaces, he said.

As for re-entry, Austin said it would be "naive at best" to expect California's big cities, the hometowns of most of the state's prisoners, to welcome the mini-prisons into their boundaries.

Lawsuits and public hearings, Austin said in the declaration, also "can be expected to delay the process for years."

"Any time you try to build your way out of these situations, it usually doesn't work very well," Austin said in an interview.

Beyond concrete and steel, the corrections agency also is trying to alter the prison population by revamping the parole system.

In May, the agency ordered parole agents to grant more early discharges to lower-risk offenders who otherwise would face a three-year parole "tail." Through the end of October, the order resulted in more than 1,000 additional early discharges, a 20 percent increase over last year.

At the same time, parole agents diverted 4,767 technical parole violators into community programs instead of prison. They've also discharged 253 more parolees from supervision who completed five months of drug treatment once they got out of prison.

"I'm optimistic we're going to have an impact on the population in a good way, making better decisions about (parole) violations," corrections secretary Tilton said.

But Assemblyman Todd Spitzer, R-Orange, said he is worried the parole changes will enable offenders who otherwise would be locked up to stay on the streets and commit new crimes.

"I think the department is moving much too quickly because of the pressure from the three-judge panel," Spitzer said.

On rehabilitation, the corrections agency commissioned a report from an expert panel earlier this year to study its prison and parole programs and recommend how to knock down the state's 70 percent recidivism rate.

The panel presented its report to the Legislature in June, with 11 recommendations the experts said could cut the prison population by up to 48,000 within two years and save as much as \$996 million a year.

Tilton, in a Sept. 25 letter to the Joint Legislative Budget Committee, said he was adopting the report "with one major exception." He wanted his staff to re-evaluate the recommendations on population reduction.

The panel said fewer inmates would free up space for rehab programs. To lower the numbers, the experts said the prisons should cut terms on inmates who complete existing programs and should stop taking in so many low-risk parole violators.

Tilton said in an interview he's on board with reducing parole revocations but that when it comes to the panel's overall population suggestions, "We don't feel comfortable with the numbers."

Barry Krisberg, president of the National Council on Crime and Delinquency and a member of the panel, said the department's response leaves the experts' report sitting in limbo.

At stake, he said, is the difference between a momentary easing of the prison crisis and achieving a long-term solution.

"Is the administration committed to implementing it," Krisberg asked, "or is it just another report on the shelf?"